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PATENT
Attorney Docket No. 25708.0038

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<i>In re</i> patent application of:	§	Confirmation No. 7719
	§	
Friedrich W.Kuehne <i>et al.</i>	§	Group Art Unit:
	§	
Serial No.: 10/049,658	§	Examiner: To be assigned
	§	
Filed: February 15, 2002	§	

Title: CHEMICALLY-STABILIZED CHLORITE SOLUTIONS FOR TREATING
CANCER AND OTHER DISEASES

Assistant Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231

Dear Sir:

**PETITION TO ACCOMPANY OATH OR DECLARATION WHEN THERE IS A
NONSIGNING INVENTOR UNDER 37 C.F.R. § 1.47**

Applicants submit herewith the attached Declaration and Power of Attorney executed by one of the two inventors named in the captioned application. The nonsigning inventor, Dr. Vitam Kodelja, has not responded to several attempts to contact him. Specifically, Dr. Kodelja has not responded to letters sent at least on May 21 and August 7, 2002, and to a courier package delivered directly to his home on September 27, 2002. A copy of the Federal Express Airbill and tracking confirmation recording delivery of the package are attached to this petition. Accordingly, applicants respectfully petition pursuant to 37 C.F.R. § 1.47(a) for acceptance of this declaration in satisfaction of the Notice of Missing Requirements mailed April 17, 2002.

Dr. Kodelja's last known address is:

Dr. Vitam Kodelja, Birkbuschstrasse 14, 12167 Berlin, Germany.

Please charge the requisite processing fee of \$130, as set forth in 37 C.F.R.

§ 1.17(h), to the undersigned's Deposit Account, No. 08-1641. If there are any other fees due with the filing of this Petition, please charge any and all such fees to Deposit Account No. 08-1641.

Respectfully submitted,
HellerEhrman

Date: November 18, 2002

By: _____



Paul M. Booth
Registration No. 40,244

Customer Number 26633
HELLER EHRMAN WHITE & McAULIFFE LLP
1666 K Street, N.W., Suite 300
Washington, DC 20006
(202) 912-2000
(202) 912-2020



26633
PATENT TRADEMARK OFFICE

OT06 d PCT/PTO 23 DEC 2002

FORM PTO-1390 (Modified)
(REV 5-93)

U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE

ATTORNEY'S DOCKET NUMBER

**TRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A FILING UNDER 35 U.S.C. 371**

25708.0038

		U.S. APPLICATION NO. (If known, see 37 C.F.R. 1.5) 10/049,658
INTERNATIONAL APPLICATION NO. PCT/US00/22610	INTERNATIONAL FILING DATE 18 August 2000	PRIORITY DATE CLAIMED 18 August 1999

TITLE OF INVENTION
CHEMICALLY-STABILIZED CHLORITE SOLUTIONS FOR TREATING CANCER AND OTHER DISEASES

APPLICANT(S) FOR DO/EO/US

Friedrich-Wilhelm KUEHNE and Vitam KODELJA

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☐ This is a FIRST submission of items concerning a filing under 35 U.S.C. 371.
2. ☒ This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371.
3. ☐ This express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Articles 22 and 39(1).
4. ☐ A proper Demand for International Preliminary Examination was made by the 19th month from the earliest claimed priority date.
5. ☐ A copy of the International Application as filed (35 U.S.C. 371©(2))
 - a. ☐ is transmitted herewith (required only if not transmitted by the International Bureau).
 - b. ☐ has been transmitted by the International Bureau.
 - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US)
6. ☐ A translation of the International Application into English (35 U.S.C. 371 ©(2)).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371©(3))
 - a. ☐ are transmitted herewith (required only if not transmitted by the International Bureau).
 - b. ☐ have been transmitted by the International Bureau.
 - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
 - d. ☐ have not been made and will not be made.
8. ☐ A translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371©(3)).
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. 371©(4)).
10. ☐ A translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371©(5)).

Items 11. to 16. below concern other document(s) or information included:

11. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☐ A FIRST preliminary amendment.
☐ A SECOND or SUBSEQUENT preliminary amendment.
14. ☐ A substitute specification.
15. ☐ A change of power of attorney and/or address letter.
16. ☐ Other items or information:

U.S. APPLICATION NO. (If known, see 37 C.F.R. 1.50) 10/049,658	INTERNATIONAL APPLICATION NO. PCT/US00/22610	ATTORNEY'S DOCKET NUMBER 25708.0038
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17. ☒ The following fees are submitted:

Basic National Fee (37 CFR 1.492(a)(1)-(5):
Neither international preliminary examination fee (CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO.....**\$1000.00**

International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO.....**\$860.00**

International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO.....**\$710.00**

International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4).....**\$690.00**

International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4).....**\$100.00**

CALCULATIONS PTO USE ONLY

ENTER APPROPRIATE BASIC FEE AMOUNT =

*Surcharge of \$130.00 for furnishing the oath or declaration later than 20 ___ 30 X months from the earliest claimed priority date (37 CFR 1.492(e))

130.00

CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE
Total Claims	- 20		X \$18.00
Independent Claims	- 3		X \$80.00
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$270.00

TOTAL OF ABOVE CALCULATIONS =

___ Applicants claim small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.

SUBTOTAL =

Processing fee of \$130.00 for furnishing English translation later the 20 ___ 30 ___ months from the earliest claimed priority date (37 CFR 1.492(f)).

TOTAL NATIONAL FEE =

Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). **\$40.00** per property +

TOTAL FEES ENCLOSED =

				Amount to be: refunded	\$
				charged:	\$130.00

- a. A check in the amount of \$ ___ to cover the above fees is enclosed.
- b. ☒ Please charge my Deposit Account No. 08-1641 in the amount of \$130.00 to the above fees. A duplicate copy of this sheet is enclosed.
- c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 08-1641. A duplicate copy of this sheet is enclosed.
- NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.**

SEND ALL CORRESPONDENCE TO:

HELLER EHRMAN WHITE & MCAULIFFE, LLP
Intellectual Property Department
1666 K Street, N.W., Suite 300
Washington, DC 20006
(202) 912-2000 (telephone)
(202) 912-2020 (facsimile)

SIGNATURE

NAME: PAUL M. BOOTH

REGISTRATION NUMBER: 40,244

DATE: NOVEMBER 18, 2002



DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I HEREBY DECLARE:

THAT my residence, post office address, and citizenship are as stated below next to my name;

THAT I believe I am the original, first, and sole inventor (if only one inventor is named below) or an original, first, and joint inventor (if plural inventors are named below or in an attached Declaration) of the subject matter which is claimed and for which a patent is sought on the invention entitled

CHEMICALLY-STABILIZED CHLORITE SOLUTIONS FOR TREATING CANCER AND OTHER DISEASES

the specification of which (check one)

 is attached hereto.

 X was filed on February 15, 2002 as U.S. Patent Application No. 10/049,658

THAT I do not know and do not believe that the same invention was ever known or used by others in the United States of America, or was patented or described in any printed publication in any country, before I (we) invented it;

THAT I do not know and do not believe that the same invention was patented or described in any printed publication in any country, or in public use or on sale in the United States of America, for more than one year prior to the filing date of this United States application;

THAT I do not know and do not believe that the same invention was first patented or made the subject of an inventor's certificate that issued in any country foreign to the United States of America before the filing date of this United States application if the foreign application was filed by me (us), or by my (our) legal representatives or assigns, more than twelve months (six months for design patents) prior to the filing date of this United States application;

THAT I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment specifically referred to above;

THAT I believe that the above-identified specification contains a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention, and sets forth the best mode contemplated by me of carrying out the invention; and

THAT I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I HEREBY CLAIM foreign priority benefits under Title 35, United States Code §119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate or of

any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number	Country	Foreign Filing Date	Priority Claimed?	Certified Copy Attached?

I HEREBY CLAIM the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below.

U.S. Provisional Application Number	Filing Date
60/149,429	August 18, 1999

I HEREBY CLAIM the benefit under Title 35, United States Code, §120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application Number	PCT Parent Application Number	Parent Filing Date	Parent Patent Number
	PCT/US00/22610	August 18, 2000	

I HEREBY APPOINT the following registered attorneys and agents of the law firm of **Heller Ehrman White & McAuliffe** to have full power to prosecute this application and any continuations, divisions, reissues, and reexaminations thereof, to receive the patent, and to transact all business in the United States Patent and Trademark Office connected therewith:

PAUL BOOTH	Reg. No. 40,244
PATRICIA D. GRANADOS	Reg. No. 33,683
JOHN P. ISACSON	Reg. No. 33,715
RONALD J. KAMIS	Reg. No. 41,104
MARVIN A. MOTSENBOCKER	Reg. No. 36,614
JAMES REMENICK	Reg. No. 36,902
COLIN G. SANDERCOCK	Reg. No. 31,298
SUSAN E. SHAW MCBEE	Reg. No. 39,294

and I request that all correspondence be directed to:

Collin G. Sandercock, Esq.
HELLER EHRMAN WHITE & MCAULIFFE
 1666 K Street, NW, Suite 300
 Washington, DC 20006
 Telephone: (202) 812-2000
 Facsimile: (202) 812-2020

I UNDERSTAND AND AGREE THAT the foregoing attorneys and agents appointed by me to prosecute this application do not personally represent me or my legal interests, but instead represent the interests of the legal owner(s) of the invention described in this application.

I FURTHER DECLARE THAT all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Friedrich W. Kuehne

Bangkok, Thailand

German

155/1 Mochan Panya Soi 23, Pattanakarn Road, Bangkok
10250

F. H. Newcomb

18/11/02

Vitam Kodelja

South San Francisco, CA

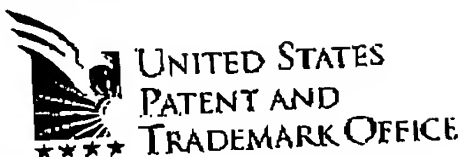
Swiss

601 Gateway Boulevard, Suite 450, South San Francisco, CA
94080

✓

Date _____

Deposit Account Statement

Deposit Account Statement

Requested Statement Month:

November 2002

Deposit Account Number:

081641

Name:

HELLER EHRMAN WHITE & MCAULIFFE

Attention:

PATENT GROUP

Address:

275 MIDDLEFIELD ROAD

City:

MENLO PARK

State:

CA

Zip:

94025-3506

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
11/01	31	PCT/US02/34631	26822-0043PC	1707	\$55.00	\$62,462.00
11/01	33	PCT/US02/34631	26822-0043PC	8006	\$15.00	\$62,447.00
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12/23/2002

Deposit Account Statement

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11/07 6	09379888 14251-0006P1	2801	\$370.00	\$51,773.00
11/07 22	10229530 26822-0034	1460	\$130.00	\$51,643.00
11/07 68	5409155	1552	\$2,020.00	\$49,623.00
11/07 170	09389342 65724.0106	1401	\$320.00	\$49,303.00
11/08 93	09894879 38572.0024	2202	\$234.00	\$49,069.00
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11/13 215	10275624 39564.0006	1615	\$216.00	\$43,162.00

Deposit Account Statement

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11/14 209	923986		8014	\$75.00	\$57,113.00
11/14 276	924061		8007	\$30.00	\$57,083.00
11/15 4	09625972	24741-1514	1253	\$520.00	\$56,563.00
11/18 139	PCT/US02/36283	38604.0025	1601	\$240.00	\$56,323.00
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11/19 295	PCT/US02/36463	38604.0028	8006	\$15.00	\$50,242.00
11/19 375	PCT/US02/36447	12050-1166PC	1601	\$240.00	\$50,002.00
11/19 376	PCT/US02/36447	12050-1166PC	1704	\$936.00	\$49,066.00
11/19 377	PCT/US02/36447	12050-1166PC	1702	\$407.00	\$48,659.00
11/19 378	PCT/US02/36447	12050-1166PC	1703	\$288.00	\$48,371.00
11/19 379	PCT/US02/36447	12050-1166PC	1707	\$440.00	\$47,931.00
11/19 380	PCT/US02/36447	12050-1166PC	8006	\$15.00	\$47,916.00
11/20 50	09795872	37629-0040	1806	\$180.00	\$47,736.00
11/20 63	09575811	PM270682	2501	\$640.00	\$47,096.00
11/20 64	09575811	PM270682	8001	\$15.00	\$47,081.00
11/20 173	926780		8024	\$40.00	\$47,041.00
11/20 174	926780		8014	\$25.00	\$47,016.00
11/20 312	927141		8006	\$15.00	\$47,001.00
11/20 483	PCT/US02/18092	39225-0707PC	1605	-\$490.00	\$47,491.00
11/20 484	PCT/US02/18092	39225-0707PC	1606	\$750.00	\$46,741.00
11/21 28	PCT/US02/36775	10008-1195	1601	\$240.00	\$46,501.00
11/21 29	PCT/US02/36775	10008-1195	1704	\$936.00	\$45,565.00
11/21 30	PCT/US02/36775	10008-1195	1702	\$407.00	\$45,158.00
11/21 31	PCT/US02/36775	10008-1195	1703	\$225.00	\$44,933.00
11/21 32	PCT/US02/36775	10008-1195	8006	\$15.00	\$44,918.00
11/21 33	PCT/US02/36775	10008-1195	1707	\$352.00	\$44,566.00
11/21 168	09429691	39227-0701	2255	\$980.00	\$43,586.00

Deposit Account Statement

Page 4 of 4

11/22 66	10049658	25708-0038	1617	\$130.00	\$43,456.00
11/22 67	10049658	25708-0038	2255	\$980.00	\$42,476.00
11/22 68	10049658	25708-0038	1460	\$130.00	\$42,346.00
11/22 69	928096		8013	\$25.00	\$42,321.00
11/22 200	928349		8006	\$45.00	\$42,276.00
11/22 264	928471		8014	\$75.00	\$42,201.00
11/25 1	08979154	38005-0068	1251	\$110.00	\$42,091.00
11/25 13	PAYMENT		9203	-\$10,983.00	\$53,074.00
11/25 39	60428286	39147-0005	2005	\$80.00	\$52,994.00
11/25 43	PAYMENT		9203	-\$14,212.00	\$67,206.00
11/25 98	60428084	38187-2604	2005	\$80.00	\$67,126.00
11/26 88	09840756	26822-0014	1806	\$180.00	\$66,946.00
11/26 224	929778		8007	\$30.00	\$66,916.00
11/27 91	PCT/US02/37453	18120-0905PC	1601	\$240.00	\$66,676.00
11/27 92	PCT/US02/37453	18120-0905PC	1704	\$936.00	\$65,740.00
11/27 93	PCT/US02/37453	18120-0905PC	1707	\$440.00	\$65,300.00
11/27 94	PCT/US02/37453	18120-0905PC	8006	\$15.00	\$65,285.00
11/27 95	PCT/US02/37453	18120-0905PC	1702	\$407.00	\$64,878.00
11/27 404	10069751	38463-0002	2617	\$65.00	\$64,813.00
11/27 405	10069751	38463-0002	2255	\$980.00	\$63,833.00
11/27 406	10069751	38463-0002	1460	\$130.00	\$63,703.00
11/29 114	PCT/US02/21066	38596.0014	1605	\$490.00	\$63,213.00
11/29 115	PCT/US02/21066	38596.0014	1705	\$146.00	\$63,067.00
11/29 183	6453202		1811	\$100.00	\$62,967.00
11/29 202	10176111	38587.0033	2253	\$460.00	\$62,507.00
11/29 203	10176111	38587.0033	2001	\$370.00	\$62,137.00
11/29 204	10176111	38587.0033	2051	\$65.00	\$62,072.00
11/29 205	10176111	38587.0033	2202	\$171.00	\$61,901.00

START BALANCE	SUM OF CHARGES	SUM OF REPLENISH	END BALANCE
\$62,517.00	\$49,717.00	\$49,101.00	\$61,901.00

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